

EVIDENCE APPENDIX

A copy of the Declaration of Mike O'Donnell and Andrew Cameron is submitted herewith in accordance with 37 CFR §41.37(c)(1)(ix).

Declaratory evidence pursuant to 37 CFR §1.31 has been submitted in the instant application on April 28, 2004. The evidence was acknowledged and entered into the record by the Examiner per the nonfinal office action mailed July 12, 2004, paper no. 20040702 of the file wrapper.

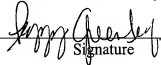


THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Mike O'Donnell and Andrew Cameron
Title: AUTOMATED LICENSE OFFERING WITH EMBEDDED HOTSPOT (amended)
Serial No.: 09/245,798
Filing Date: February 5, 1999
Examiner/Unit: Beth Van Doren / 2700
Attorney Docket No.: 1690-1-1

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited in the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Fee Amendment, Commissioner for Patents, P O Box 1450 Alexandria, VA 22313-1450 on this 12th day of April, 2004.


Signature

Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

DECLARATIONS UNDER 37 CFR 1.131

1. My name is Mike O'Donnell. I am the lead inventor of the invention specified by claims 84 – 118 of the above-referenced pending U. S. patent application. My co-inventor, Andrew Cameron, contributed to some of the elements specified in dependent claims.

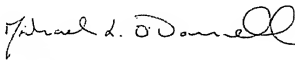
2. I conceived of all of the elements specified by the independent claims (84, 95, and 108) on a date at least as early as January 8, 1998. On that date, I authored a document detailing many aspects of the invented system, a copy of which is attached hereto as Exhibit A. The creation date of January 8, 1998 was automatically written into the electronic copies of the

document. The electronic record also shows that the document was printed on February 10, 1998. I gave copies of the document printed on February 10, 1998 to others for purposes of advancing the iCopyright business which was to be founded in part on the inventions specified by claims 84 – 118.

3. From January 8, 1998 through the filing date of the present application, February 5, 1999, I devoted fulltime working efforts to advancing the inventions specified by claims 84 – 118 and starting a business based on the inventions. When that business received venture funding I wrote the first draft of the specification for the present patent application that was filed February 5, 1999.

I declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true. I acknowledge that willful false statements and the like are punishable by fine or imprisonment or both and may jeopardize the validity of the application or any patent issuing thereon.

Dated the 24 day of April, 2004.

A handwritten signature in cursive script, appearing to read "Michael D. O'Donnell". The signature is written in dark ink on a white background.

Mike O'Donnell

4. My name is Andrew Cameron. I assisted Mike O'Donnell by fleshing out details of the inventions which he conceived. My contributions are specified in claims that depend from claim 84 in the present application. I did not contribute to the invention specified in claim 84.

I declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true. I acknowledge that willful false statements and the like are punishable by fine or imprisonment or both and may jeopardize the validity of the application or any patent issuing thereon.

Dated the 26th day of April, 2004.



Andrew Cameron

icopyright.com

Executive Summary

The Business

icopyright.com (<http://www.icopyright.com>) is the Internet's first electronic clearinghouse for proprietary content on the web. The business proposes to offer four distinct services that are not currently being offered by any other company:

1. icopyright.com will educate users of the Internet about the proprietary content available on the web, by raising the visibility of copyright issues where ever they surf.
2. icopyright.com will display the rights information and the acceptable use policy of each registered publisher and/or copyright owner and help to develop standardized policies for re-use of content.
3. icopyright.com will provide automated systems and forms for obtaining permission (clearance) to re-print, cite or re-purpose any content found on the web.
4. icopyright.com will deliver the content in a fashion stipulated by the publisher/owner, once permission has been granted and the status of the user has been verified. This may be in the form of printed copies or electronic media.
5. icopyright.com will provide secure, fully-enabled transaction processing for content licensing.

There are at least five sources of revenue for the icopyright service:

- Transaction processing fees on millions of clearances.
- Fees for delivery of paper re-prints and/or digital content.
- Advertising sponsorships.
- List capture and brokering of user names and web site owners.
- Licensing fees from software developers and content publishers for a software development kit (SDK).

The Mission

To place the icopyright icon  on every web page on the Internet.

The Business Opportunity

There currently does not exist a central clearinghouse for copyright permissions and clearance transactions for content found on the World Wide Web. Content owners and publishers want to protect their proprietary material. They want to be paid for re-prints and when their material is re-purposed in other ways. End users, particularly companies that are sensitive to the legal liabilities inherent in copyright infringement, need a standardized mechanism for obtaining permission and for paying any associated royalties for using content they find on the Internet.

President Clinton recently signed the "No Electronic Theft Act," which makes willful copyright infringement punishable by \$1,000 to \$100,000 and jail time, even if the offender does not make a profit on the infringed material. Even with tougher regulations, there remains a tremendous amount of confusion and misinformation about copyrighted information on the Internet.

icopyright has the opportunity to emerge as a centralized authority and clearinghouse for permissions and royalty clearances.

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The Services

The service is envisioned to work as follows:

- The icrosoft icon is placed on participating web sites. This is a free service to content owners and publishers, so millions of companies that maintain web pages can be expected to participate.
- Each icrosoft icon is hotlinked via a unique URL to the icrosoft server database.
- When a user clicks on the icon, the icrosoft server detects which page the user is linking from and instantly displays the information pertinent to that content owner. This information may include the following:
 - The owner(s) of the copyrighted material.
 - The Terms of Use policy for different types of users. For example, content may be free to students, but not free to commercial enterprises.
 - The costs associated with re-prints or re-use of the content in various mediums.
 - The procedure for obtaining permission and/or buying the rights to use any of the content.
- An automated form that collects the necessary information from the user and forwards it to the appropriate permissions manager. The icrosoft clearinghouse may also have agreements with certain publishers to act as the permissions manager.
- The service will verify the user is who he or she says she is and that the content will only be used according to the terms of the licensing arrangement.
- Secure system for facilitating credit card payments.
- Upon content and payment clearance, automated follow up to the user to deliver the desired content.

Proprietary Features/Competitive Advantages

The business will be built on the following features and advantages:

- First to market. There is not room on any one web page or site for more than one button for copyright clearance. Content owners and publishers are likely to settle on one central clearinghouse service.
- Sophisticated web technologies, which include relational database and e-commerce systems.
- Relationships with large digital printing facilities to process re-print requests, and with digital mastering facilities (images, sound, video) to process content for re-use in electronic form (web, video, radio).
- Sophisticated payment, reporting, and auditing systems to ensure timely and accurate royalty payments to participating content owners and publishers.
- Possibility of exclusive contracts with large content owners/publishers like Time Warner, Disney, Playboy, ZDNet, CNET and other new media companies for all their Internet copyright clearance.
- Strong branding, supported by trademark protection of the icrosoft mark.

Market Size and Conditions

According to Network Wizards there are approximately 20 million web server hosts with a valid IP address. These servers host billions of web pages which are accessible by the general public worldwide, most of which contain copyrighted material. In addition, millions of domain names have been registered, growing at 100,000 new domain names each month. Seven new top level domain names are expected to come online this Spring. The number of people using the Internet is expected to grow from 40 million in 1998 to over 150 million by 2003.

A recent survey of copyright permissions on the Internet by Design Intelligence, uncovered the following information:

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- There is NO consistent policy or process to get content permissions from the Web.
- Some sites post a message that they will grant permission to use their content for personal and/or noncommercial use, but provide no clear way on how to go about it.
- The Wall Street Journal Interactive site advertises a number users can call to obtain reprints, but their is no automated, online mechanism for orders or payments.
- Netscape asks users to e-mail them to request permissions. Upon doing so, however, we never heard back.
- CNET asks users to e-mail them to request permissions. We received an e-mail back saying someone would be in touch. To date, no one has followed up.
- Disney provides no way for users to contact them regarding copyright clearances.
- ZDNET provides no way for users to contact them regarding copyright clearances.
- CNN provides no way to contact them regarding copyright clearances.
- ABC/NBC provides no way to contact them regarding copyright clearances.
- FOX doesn't have any legal notices about copyright and permissions.
- LA TIMES provides a phone number to call the LA Times Syndicate Permissions Desk for the proper permissions.
- NY TIMES provides an e-mail address and fax options to get reprints permissions, but no online forms mechanism.

Many sites do not include any copyright notices or Terms of Use pages. Those that do so present the information in small type at the bottom of the Homepage only. The conclusion from this preliminary research is that copyright notices, standards and clearances is a problem for big content publishers/owners as much as it is for small content publishers/owners. It is a problem waiting to be solved.

Competition

There are a variety of competing technologies for digital copyright protection, such as Cryptolopes and Digital Watermarks, that attempt to imbed or encrypt digital images and/or streaming audio and video files with marks that identify the owner. These watermarks can track whether the digital file has been legally licensed. This technology does not include the protection of text information, such as articles, unless the article is printed on a background image that includes a watermark. In the case of text, however, it is very easy to cut, copy and paste the text off the background, leaving the watermark behind.

There are a variety of clearinghouse agencies for the print and broadcast media, but none of them can be found online at the present time. The closest competitor, or perhaps collaborator in an effort like copyright, is the Copyright Clearance Center (CCC). They have a web site at <http://www.copyright.com>. This is a non-profit organization for paying members only. It facilitates copyright permissions for photocopies owned by its members. It is unclear whether CCC will make a foray into the Internet space.

Revenue Sources and Projections

Five year financial projections are currently being developed. The revenue potential for an Internet service such as icopyright is thought to be in excess of \$100 million per year. The service is expected to earn a transaction fee on millions of clearances and reprints processed each day. In addition to revenue from clearance transactions and reprints, revenue will come from digital mastering fees for streaming audio and video. There also exists the potential for substantial revenue from sponsorships.

If implemented as envisioned, icopyright.com would be one of the largest, most popular destinations on the Internet. The icopyright button could become the most prolific and widely-recognized icon in Cyberspace.

These user impressions are worth \$10 - \$30 per thousand (CPM) to national advertisers seeking to reach and influence online users.

Another source of revenue might be licensing fees from software developers and content publishers, in the form of a software development kit (SDK) that can be integrated into their products. Since all software in the future is expected to provide direct connections to the Internet, and many of these allow for the direct capture or manipulation of content (i.e., word-processing, DTP, Web page/site builders, graphics programs, etc.), building a copyright clearance component into their products would be a prudent step for most software developers and publishers.

The Barriers

At this stage there are two significant barriers to commercializing a service like icopyright. The first is the international implications for copyright clearances. The Internet is by default an international medium. The requirement to address copyright laws, clearances, currency and taxes as they relate to transaction processing -- and other regulatory and commerce variables from country-to-country -- is unknown at this time. Once overcome, however, there is an opportunity to set the direction for content handling on the Internet on a world-wide scope.

The second barrier is in quantifying, and providing for, the wide range of copyright policies and protections that may be demanded by millions of content owners. Getting people to trust a centralized source may take some time. Getting content owners and publishers to agree on standard mechanisms for clearance and re-licensing may be a large undertaking. Once overcome, however, icopyright has an opportunity to help define and implement standards and processes that protect the content owners, while reducing the pirating and misuse of digital content among the general public. Most importantly, it can help content publishers maximize the amount of money they make from their intellectual property.

Key Strategic and Tactical Components

1. Infrastructure Components

icopyright will require one or more web servers, co-location services, server software, and backbone connectivity. It may also require a virtual private network (VPN).

2. Technology Components

icopyright will require a relational database system, an e-commerce system for secure transactions, cgi forms handling, file transport system for print services and digital mastering, and possibly an ad server. icopyright will also require extended royalty reporting and payments system and various community-building tools. Some custom development and system integration will be necessary, however most of the technology can be licensed from existing sources.

3. Content Components

icopyright will require easy to navigate web pages, wizards, and fill-in-the-blank forms for submission inquiries; information on copyright laws and user rights and obligations; and co-branded links to authoritative sources. Web masters need to be able to auto-register with icopyright and add the icon to their pages through a do-it-yourself mechanism.

4. Strategic Partner Components

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icopyright will require wide bipartisan support from the private, public and non-profit sectors of the economy, on a world-wide basis. A coalition of strategic partners may include: Network Solutions (holders of all domain name registrations), Oracle or Sybase (database solution), Netscape or Microsoft (web browser/web server/merchant technology), W3 Consortium (embody the spirit of the Internet), and the U.S. Copyright Office (citizen rights and obligations).

In addition, the need to enroll several of the top content publishers on the Internet is paramount. These may include: AOL, Netscape, Yahoo, Microsoft, Time Warner, Disney, Ziff Davis, Excite, Lycos, CNN, and USA Today. A relationship with one or more of the large digital printing facilities will be required (Donnelley, Moore, Kinkos, Alpha Graphics). The ability to "affiliate" the existing re-print and permissions clearinghouse community should also be considered as part of the strategy to gain wide adoption quickly.

5. Marketing/Branding Components

icopyright will require a strong mark (brand), represented in the form of an icon, that can be used on ANY web page and in any other medium. It must be conspicuous, yet non-offensive to site designers and developers if it is to be widely adopted. The name icopyright must be free of all potential conflicts.

6. Management and Staffing Components

icopyright requires a strong e-commerce engineering team, web site design, development and maintenance team, business development team, marketing team, product management team, and intellectual property (legal) team. These teams can be comprised of employees and contractors.

Next Steps

Develop a comprehensive business plan for icopyright.